

**§ 1446.307 Disaster transfer of Segregation 2 or Segregation 3 peanuts from additional loan to quota loan.**

(a) *Transfer of Segregation 2 and Segregation 3 peanuts.* Except as otherwise provided in this section, after a producer has completed marketing all peanuts produced on the farm, such producer may transfer a loan on Segregation 2 or Segregation 3 additional peanuts to a quota loan.

(b) *Limitation of amount eligible for transfer.* A transfer made in accordance with this section shall not exceed the smaller of:

(1) The difference between:

(i) The total quantity of Segregation 1 peanuts marketed from the farm, plus the amount of peanuts retained on the farm for seed or other use, and

(ii) The effective farm poundage quota, excluding quota pounds transferred to the farm in the fall; or

(2) Twenty-five percent of the effective farm poundage quota, excluding quota pounds transferred to the farm in the fall.

(c) *Offset of CCC losses.* As provided in this part, if a producer transfers an additional loan to a quota loan in accordance with the provisions of this section, any pool proceeds otherwise due such producer from peanuts in another pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred.

(d) *Loan value for transferred peanuts—(1) Segregation 2 peanuts.* The quota loan value for any lot of Segregation 2 peanuts transferred from an additional loan to a quota loan shall be determined by multiplying 70 percent of the quota loan rate that otherwise would have been applicable for such lot of peanuts as quota peanuts, exclusive of any discount for damaged kernels, by the net weight of peanuts being transferred and deducting from the result the amount of any special discount that may apply for Segregation 2 peanuts transferred in accordance with this section.

(2) *Segregation 3 peanuts.* The quota loan value for any lot of Segregation 3 peanuts transferred from an additional loan to a quota loan shall be determined by multiplying 70 percent of the quota loan rate that otherwise would have been applicable for such lot of

peanuts as quota peanuts, exclusive of any discount for damaged kernels, by the net weight of peanuts being transferred and deducting from the result the amount of any special discount that may apply for Segregation 3 peanuts transferred in accordance with this section.

(e) *Transfer provisions—(1) Where to apply.* Producers who are eligible to transfer additional loan peanuts to the quota loan pool in accordance with the provisions of this section may apply for such transfers with the county FSA office.

(2) *Determination of the amount eligible for transfer.* The county office shall determine, in accordance with paragraph (b) of this section, the quantity of additional peanuts which are eligible for transfer.

(3) *Designation of peanuts to be transferred.* The producer must indicate to the county office the net weight and applicable form FSA-1007 serial numbers for the peanuts to be transferred.

(4) *Applicability of marketings.* Any peanuts that are transferred from an additional loan to a quota loan shall be considered as marketings of quota peanuts and the applicable records shall be appropriately adjusted.

(f) *Supplemental loan payment.* The difference between the additional and quota loan rates for such peanuts, less the appropriate adjustment for the marketing assessment, shall be advanced by the marketing association to the applicable producer.

[56 FR 16230, Apr. 19, 1991, as amended at 57 FR 49633, Nov. 3, 1992; 61 FR 37624, July 18, 1996; 66 FR 1810, Jan. 10, 2001; 66 FR 10353, Feb. 15, 2001]

**§ 1446.308 Loan pools.**

(a) *Establishment of pools.* (1) Each marketing association shall establish six separate loan pools; one for each of the three segregations of additional peanuts and one for each of the three segregations for quota peanuts. These pools shall be formed without regard to the type of peanuts (Runner, Virginia, Spanish, or Valencia) involved. However, the SWPGA shall also establish 12 separate loan pools for Valencia peanuts produced in New Mexico, namely, for bright hull peanuts and for dark hull peanuts separately, to include for

each of them separate, by segregation, additional peanuts and quota peanuts pools. Each marketing association shall maintain separate, complete and accurate records for each loan pool that is established by the marketing association.

(2) *Eligibility to participate in New Mexico Pools*—(i) *In general.* Except as provided in clause (a)(2)(ii) of this section, in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State even if the farm on which the peanuts are produced is constituted for administrative purposes within the State of New Mexico.

(ii) *Exception.* A producer of Valencia peanuts may enter Valencia peanuts that are physically produced in Texas into the pools for New Mexico in a quantity not greater than the average annual quantity of the peanuts that the producer entered into the New Mexico pools for the 1990 through 1995 crops; however, to qualify, the peanuts must be produced on the same farm on which the peanuts were produced during the base years of 1990 through 1995.

(b) *Net gains for quota pools.* Net gains from peanuts in each quota pool shall consist of the amount by which the proceeds from the sale of the peanuts in such pool are in excess of the indebtedness on the peanuts in such pool.

(c) *Net gains for additional pool.* Net gains for peanuts in each additional pool shall consist of:

(1) The net gains which are in excess of the indebtedness on the peanuts placed in such pool; less

(2) Any amount as provided in paragraph (d) of this section that is allocated to offset any loss on the pools for Segregation 1 quota peanuts, and any other amount properly offset.

(d) *Recovery of losses in quota area loan pools.* (1) If the loan indebtedness on the peanuts in a quota area pool exceeds the proceeds from the sale of the peanuts in such pool, such excess shall be recovered using the following sources in the following order of priority:

(i) Proceeds due any individual producer from any pool, as a result of the transfer of peanuts for pricing purposes

from an additional loan pool to a quota loan pool, pursuant to the provisions in § 1446.307.

(ii) Gains of any producer in the same pool, by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

(iii) Gains or profits resulting from the sale of additional peanuts, other than Valencia peanuts produced in New Mexico in separate type pools established under paragraph (a) of this section, in the same marketing area for domestic edible use, that are owned or controlled by CCC. This paragraph shall not apply to gains or profits from the sale of peanuts that were produced on farms with 1 acre or less of peanut production.

(iv) Marketing assessments, collected from producers under § 729.316 of this title, that the Secretary determines are necessary to cover losses in area quota pools.

(v) Gains or profits from quota pools in other marketing areas, other than separate type pools established under paragraph (a) of this section for Valencia peanuts produced in New Mexico.

(vi) Gains or profits resulting from the sale of additional peanuts in other marketing areas, other than Valencia peanuts produced in New Mexico in separate type pools established under paragraph (a) of this section, for domestic edible use, that are owned or controlled by CCC. This paragraph shall not apply to gains or profits from the sale of peanuts that were produced on farms with 1 acre or less of peanut production.

(vii) Marketing assessments, collected from handlers under § 729.316 of this title, that the Secretary determines are necessary to cover losses in area quota pools.

(viii) Increased marketing assessments on quota peanuts in the production area covered by the pool, which shall be assessed as needed and collected from producers under § 729.317 of this title.

(2) The exceptions provided for Valencia peanuts in paragraph (d)(1) of this section shall only apply as to prevent offsets between pools for each of the Valencia types (bright-hull and

dark-hull) for New Mexico and other peanuts.

(e) *Pool distribution.* (1) Net gains as determined in accordance with this section on peanuts in each area pool shall be distributed to each producer who placed peanuts in that pool in proportion to the dollar value of peanuts placed in such pool by that producer, except that the proceeds available for the amount of distribution shall be subject to any other conditions and offsets set forth in this section; and

(2) Distributions shall not be assigned to any other party.

(f) *Loan indebtedness.* With respect to determining the gains and losses in accordance with this section for loan pools for quota and additional peanuts, the term "indebtedness" with respect to a pool shall include, but is not limited to, the following expenses associated with such peanuts:

- (1) Loan advance to producers.
- (2) Inspection fees.
- (3) Storage and handling charges.
- (4) Shelling costs.
- (5) Transportation and related charges.
- (6) Administrative and supervision expenses.
- (7) Interest applicable to any repayable amount.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38329, Aug. 13, 1991; 61 FR 37624, July 18, 1996]

**§ 1446.309 Immediate buyback and sale of loan peanuts to the storing handler.**

(a) *"Immediate buyback" purchase of additional peanuts—*(1) *Producer consent.* Except as provided in this section, if the producer of a lot of additional peanuts has consented to an "immediate buyback" of such peanuts by a handler, as indicated by a designation recorded on the form FSA-1002, the handler that acts for the marketing association in advancing funds to the producer for a price support loan at the additional loan rate on such peanuts may purchase such peanuts from the marketing association for domestic edible use in accordance with instructions from the marketing association and at a price equal to 100 percent of the quota loan value of such peanuts plus a handling charge, as determined by the mar-

keting association and approved by CCC, to cover all costs incurred with respect to such peanuts for inspection, warehousing, shrinkage, and other expenses.

(2) *Time for buyback purchase.* An "immediate buyback" purchase may be made only in connection with the marketing association involved in the price support loan and only on the date on which the peanuts were delivered by the producer as collateral for a price support loan. Such sales are for the account of CCC.

(3) *Handler requirements.* For each "immediate buyback," the handler shall:

(i) Act for the marketing association by making a price support advance to the producer at the additional loan rate and in the same manner that would be applicable if an "immediate buyback" were not involved;

(ii) If applicable, use such handler's funds to pay to the producer any premiums that the parties had agreed upon in order to effect the delivery of such peanuts;

(iii) Pay for the peanuts by a check made payable to CCC. Such check must be from the handler's funds and in an amount equal to the quota loan value of the peanuts plus any handling charges; and

(iv) Transmit the handler's check and the applicable form FSA-1007 to the marketing association by midnight of the third workday (excluding Saturdays, Sundays, and Federal holidays) following the day the peanuts were inspected.

(4) *Domestic edible use.* The handler's check and the applicable form FSA-1007 will identify the peanuts as additional peanuts that may be used for domestic edible use.

(5) *Loan pool credit.* Irrespective of the segregation of such peanuts, the receipts from the "immediate buyback" sale will be credited to the additional loan pool for Segregation 1 peanuts and the peanuts will be treated as Segregation 1 peanuts for pool accounting purposes.

(6) *Loan pool participation.* If Segregation 2 or Segregation 3 peanuts are purchased by a handler under the "immediate buyback" provisions, the producer of such peanuts shall participate